

39 N.J.R. 4387(b)

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RULE PROPOSALS

LAW AND PUBLIC SAFETY DIVISION OF HIGHWAY TRAFFIC SAFETY

39 N.J.R. 4387(b)

Proposed New Rules: N.J.A.C. 13:86A

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Pedestrian Safety, Enforcement and Education Fund Grant Program

Authorized By: Pamela Fischer, Director, Division of Highway Traffic Safety.

Authority: *N.J.S.A. 39:4-36.2*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-300.

Submit written comments by December 14, 2007 to:

Director Pamela Fischer
Division of Highway Traffic Safety
P.O. Box 048
Trenton, NJ 08625-0048.

The agency proposal follows:

Summary

P.L. 2005, c. 86, approved on May 4, 2005, created a non-lapsing revolving fund known as the Pedestrian Safety, Enforcement and Education Fund (Fund) in the Division of Highway Traffic Safety (DHTS). The Fund is a repository for monies provided pursuant to subsection c. of *N.J.S.A. 39:4-36* and shall be administered by DHTS. Under the statute, a motorist must yield to a pedestrian crossing the roadway at an intersection. Failure to yield may result in a fine not to exceed \$ 100.00. A total of \$ 50.00 of such fine is dedicated to the fund, to be used to make grants to municipalities and counties with pedestrian safety problems. Priority in awarding grants shall be given to municipalities and counties requesting funds in order to take remedial steps for intersections that have been identified by the Department of Transportation as demonstrating pedestrian safety problems pursuant to *N.J.S.A. 39:4-36.3*.

Proposed new Subchapter 1 contains general provisions, including the scope and authority and construction of the chapter, as well as definitions of terms used throughout the rules.

Proposed new Subchapter 2 contains rules describing the standards of eligibility for applicants for pedestrian safety and education grants and eligible project costs. Proposed new rule N.J.A.C. 13:86A-2.2 describes the types of projects eligible for grants, including posting signs, conducting educational and training programs, public outreach to improve pedestrian safety, assignment of police officers or authorized crossing guards at intersections and crosswalks and other initiatives approved by the Director. Projects must comply with the Manual on Uniform Traffic Control Devices, which is incorporated by reference and are the standards established by the U.S. Department of Transportation, Federal Highway Administration pertaining to traffic signals and adopted by the New Jersey Department of Transportation at *N.J.A.C. 16:20A-2.4*. The section also describes costs that will be allowable for reimbursement.

Proposed new Subchapter 3 contains rules on allocation of grant funding. Proposed new rule N.J.A.C. 13:86A-3.2 provides that this is a reimbursement grant program.

Proposed new Subchapter 4 contains rules on application and project agreement procedures. Proposed new rule N.J.A.C. 13:86A-4.1 provides that the Division will publish a notice of availability of funds in the New Jersey Register by March 15 of each State fiscal year. Proposed new rule N.J.A.C. 13:86A-4.2 provides that applications shall be submitted no later than April 15 of each year and the required content of the application. Proposed new rule N.J.A.C. 13:86A-4.4 provides that a municipality or county may be awarded only one grant for a State fiscal year. Proposed new rule N.J.A.C. 13:86A-4.3 describes the approval process and standards for approval of awards.

Because the Division has provided a 60-day comment period, this proposal is exempt from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

According to the National Highway Traffic Safety Administration in 2005, a total of 4,881 pedestrians were killed in traffic crashes in the United States. On average, a pedestrian is killed in traffic crashes every 108 minutes and injured every eight minutes. Most pedestrian fatalities in 2005 occurred in urban areas (74 percent), in normal weather conditions (67 percent) and at night (67 percent). When comparing pedestrian fatalities to total traffic fatalities in 2005, the national average was 11.2 percent. In New Jersey, pedestrian fatalities were identified at 20.6 percent.

The Governor has recognized the seriousness of pedestrian traffic accidents and recently established a five-year initiative to improve pedestrian safety. The New Jersey Department of Transportation, Department of Law and Public Safety, and Motor Vehicle Commission will implement a three-pronged strategy to encourage motorists to safely share the roadways with pedestrians through engineering, education and enforcement strategies. The DHTS provides funds to municipalities and counties for enforcement initiatives and to develop and implement pedestrian safety campaigns in cities that reveal a high incidence of pedestrian injuries and fatalities from crashes. The assistance that will be provided by grants from the Fund will be used to augment existing pedestrian safety programs administered by the DHTS.

Economic Impact

Grants made from the Fund will provide municipalities and counties with programs that are intended to reduce or eliminate pedestrian safety problems at intersections, crosswalks and roadways. Such programs may permit payment of overtime salaries by municipalities and counties for police officers to increase their patrols at locations that have pedestrian problems. DHTS estimates that educational or training materials costing \$ 1,500 may be purchased to raise public awareness of pedestrian safety; purchasing and installing a traffic sign may be accomplished with as little as \$ 500.00 in grant funds, while \$ 1,000 may pay for enhanced crosswalk markings.

Reducing the number of pedestrian fatalities and injuries will have a positive economic impact on the public. Taking into consideration medical costs, property damage and other costs, a motor vehicle fatality costs approximately \$ 1.14 million and an injury's cost varies from \$ 6,317 for a minor injury to \$ 1.31 million for a major injury. Motor vehicle related crashes in New Jersey cost the public more than \$ 8 billion.

Federal Standards Statement

A Federal standards analysis is not required because there is no Federal standard or regulation applicable to the Pedestrian Safety Enforcement and Education Fund.

Jobs Impact

The DHTS does not anticipate that the proposed new rules will have any impact on the number of persons employed by municipalities and counties who receive grants or upon any other business or industry in New Jersey.

Agriculture Industry Impact

The DHTS does not anticipate that the proposed new rules will have any impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. The proposed new rules apply to municipalities and counties that seek State grant funds for pedestrian safety projects.

Smart Growth Impact

The proposed new rules will have no impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

CHAPTER 86A

PEDESTRIAN SAFETY, ENFORCEMENT AND EDUCATION FUND

SUBCHAPTER 1. GENERAL PROVISIONS

13:86A-1.1 Scope and authority

The rules in this chapter govern the award of grants by the Division of Highway Traffic Safety to municipalities and counties with pedestrian safety problems, to support projects to address these problems in accordance with the Pedestrian Safety Enforcement and Education Fund Act, *N.J.S.A. 39:4-36.2* et seq.

13:86A-1.2 Construction

This chapter shall be liberally constructed to allow the Division of Highway Traffic Safety to fully effectuate the purposes of the Act.

13:86A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Director" means the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety.

"Division" means the Division of Highway Traffic Safety in the Department of Law and Public Safety.

"DOT" means the New Jersey Department of Transportation.

"Grant" means an award of monies from the PSEEF to a local entity to support the costs of a pedestrian safety project.

"Intersection" means a traffic intersection under the authority of a municipality or county, whether or not controlled by a traffic control signal.

"Pedestrian safety problems" means traffic-related or other problems that interfere with or affect the safe use of an intersection, crosswalk or roadway by pedestrians.

"Project" means the enforcement, educational or other remedial steps authorized by this chapter to address pedestrian safety problems, which are set forth by a county or municipality in the approved grant application.

"Project period" means the time during which the funds awarded shall be available for reimbursement for allowable costs.

"PSEEF" or "Fund" means the Pedestrian Safety Enforcement and Education Fund, established in the Division by *N.J.S.A. 39:4-36.2*.

"SFY" means the State Fiscal Year, July 1 to June 30.

SUBCHAPTER 2. ELIGIBILITY FOR PEDESTRIAN SAFETY AND EDUCATION GRANT AWARDS

13:86A-2.1 Eligible applicants

Municipalities and counties with pedestrian safety problems are eligible to apply for a grant. Priority in awarding grants shall be given to municipalities and counties requesting funds in order to take remedial steps for intersections under their authority that have been identified by DOT as demonstrating pedestrian safety problems, pursuant to the Act.

13:86A-2.2 Eligible projects and costs

(a) The following projects are eligible for a grant through this program:

1. The posting of a sign to prohibit drivers from making right turns upon "STOP" or "CAUTION" signal at an intersection controlled by a traffic control signal. All such signs must conform to the "Manual on Uniform Traffic Control Devices" (MUTCD), incorporated herein by reference, 3rd edition, revision 1, as amended and supplemented, published by the U.S. Department of Transportation, Federal Highway Administration (FHWA).

- i. The MUTCD is available in electronic format from the FHWA website at <http://mutcd.fhwa.dot.gov/>.

- ii. The MUTCD is available in book form or as a compact disk from the following organizations:

- (1) The American Association of State Highway and Transportation Officials (AASHTO) at: http://bookstore.transportation.org/direct_order_form.aspx;

- (2) The Institute of Traffic Engineers (ITE) at: <http://www.ite.org/bookstore/index.asp>; or

- (3) The American Traffic Safety Services Association (ATSSA) at: <http://www.atssa.com/>;

2. The posting of a pedestrian crossing yield sign that makes reference to State law at all crosswalks at an intersection not controlled by a traffic signal;

3. The conducting of an educational or training program or public outreach program aimed at improving pedestrian safety;

4. The assignment of a police officer or authorized crossing guard at an intersection or crosswalk; and

5. Other initiatives approved by the Director, designed to eliminate or reduce pedestrian safety problems at intersections, crosswalks, or other roadways.

(b) The following costs constitute allowable costs for a project:

1. Engineering and design for a traffic sign;

2. Purchasing and installing a traffic sign;

3. Educational or training materials or media campaigns concerning pedestrian safety;
4. Compensation for a police officer or authorized crossing guard assigned to an intersection, crosswalk or other roadway;
5. Personnel or contractual service;
6. Commodities; and
7. Other direct costs approved by the Director as necessary or appropriate to implement an approved project.

SUBCHAPTER 3. ALLOCATION OF GRANT FUNDING

13:86A-3.1 Availability of funds

The availability of grant funds is subject to legislative appropriation. The Division will award grant funds from the monies deposited in the PSEEF pursuant to *N.J.S.A. 39:4-36* and *39:4-36.2*. All monies in the PSEEF as of January 1 of each year shall be available for grants to be awarded during the following SFY commencing on July 1. Any monies available for the SFY not awarded during a SFY shall be carried forward and made available for grants in the next SFY. Awards shall be made by a grant agreement, executed by the Division and the municipality or county for a particular project.

13:86A-3.2 Grant payment

(a) The award of a grant authorizes the Division to reimburse the grantee in an amount not to exceed the amount of the award, for payment(s) made by the grantee for allowable costs in compliance with terms and conditions of the grant agreement. The grantee shall follow the schedule below when submitting claims for reimbursement:

Grant Amount -----	Invoice Schedule -----
Less than \$3,000	Final claim only
\$3,000 to \$8,000	Biannual and final claims
\$8,000 to \$30,000	Quarterly and final claims
\$30,000 and more	Monthly and final claims

(b) Final invoices shall be submitted no later than 30 days after the project period has ended, unless the Director grants an extension upon request of the entity for good cause. Failure to submit timely invoices may result in the loss of unclaimed funds. Final reimbursement shall be provided to the entity no later than 60 days after the project period has ended, plus any approved extension of time to submit final invoices.

SUBCHAPTER 4. APPLICATION AND PROJECT AGREEMENT PROCEDURES

13:86A-4.1 Notice of amounts available for a grant

The Division shall publish a notice of availability of funds in the New Jersey Register by March 15 of each year, stating the amount of funds available for the award of grants for a SFY as determined under N.J.A.C. 13:86A-3.1, or a statement that no applications will be accepted for the SFY if the Director determines that the amount of funding available is insufficient to justify awards.

13:86A-4.2 Contents of application

(a) A municipality or county seeking a grant shall submit an application to the Division no later than April 15.

(b) Applications shall include the following information:

1. The names of the project director, financial director, and municipal or county official authorized to apply for and accept a grant award;
2. A description of the pedestrian safety problem and how the project will resolve it;
3. In the case of a project involving an intersection, crosswalk, or roadway, the location of the intersection, crosswalk or roadway;
4. Whether any permit, ordinance or resolution needed to implement the project has been or will be enacted by the local entity;
5. In the case of educational or training program or media campaign, a description of the program or campaign and its contents;
6. A projected schedule of implementation and completion of the project by the end of the project period; and
7. A project budget identifying all costs.

(c) The application shall be signed by the project director.

13:86A-4.3 Division approval

(a) The Division shall review the application for completeness and conformity with the requirements of N.J.A.C. 13:86A-2.2. In the event the application is incomplete or further information is needed to evaluate the contents, the Division shall contact the applicant in writing and request the additional information. The applicant shall respond in writing within 14 days from receipt of the request. If the applicant fails to respond to the request within this period, the Division may return the application as denied.

(b) If the Division determines the application conforms with the requirements of (a) above, the Division shall issue a grant award agreement to the applicant containing all terms and conditions. If the Division determines the application does not comply with the requirements of (a) above, the Division shall return the application with a written statement of the reasons for the disapproval.

13:86A-4.4 Limitation on grant awards to a single recipient

A municipality or county may be awarded only one grant for a SFY and is not eligible to be awarded another grant until the project set forth in the approved application has been completed, except that the entity may reapply for any unused portion of a grant within the project period.